

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Robert White et al.
Serial No. : 10/692,136
Filed : October 23, 2003
Title : SAFETY RAZOR

Art Unit : 3724
Examiner : Isaac N. Hamilton

Mail Stop Appeal Brief - Patents

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 C.F.R. § 41.41, Applicant responds to the Examiner's Answer as follows.

At page 5, lines 9-11 of the Examiner's Answer, the Examiner asserts that the teachings of Erdmann and Trotta are combinable "because both Erdmann and Trotta disclose devices which have cutting edges for cutting hair from a user's skin." Applicants respectfully disagree. While both the dry shaver (including the shaving foil and the underlying shearing knives) of Erdmann and the wet shaving razor blade of Trotta cut hair, there the resemblance ends. The two devices operate very differently, and cut hair using a different cutting mechanism. (Declaration of Uwe Sievers, submitted herewith, paragraph 3.)

In Erdmann, the "shearing blade" (which would more properly be translated from the German as "shearing foil") does not in itself cut hair. It is instead the shearing interaction between the edge 12 of this foil and the edges of underlying shearing knives (referred to collectively as an undercutter) that cuts the hair, in much the same manner as the interaction of the two opposing blades of a pair of scissors. Like scissor blades, the shearing foil and shearing knives do not need to have sharp cutting edges, as it is their interaction that creates the requisite shearing force. (Id.)

CERTIFICATE OF MAILING BY FIRST CLASS MAIL

I hereby certify under 37 CFR §1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated below and is addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date of Deposit

May 30, 2006

Signature

Darlene J. Morin

Darlene J. Morin

Typed or Printed Name of Person Signing Certificate

As pointed out by Applicants' representative in the Appeal Brief, the edge 12 of Erdmann's cutting foil is not at the surface plane of the shaving foil. Thus, edge 12 is not properly positioned to cut hair, absent the shearing action of the shearing blades, nor is it intended to do so. Instead, the edge is spaced from the shaver's skin, and directed towards the underlying shearing knives for interaction therewith. (Id.)

In contrast, the cutting edges of the razor blade of Trotta are intended to cut hair during wet shaving, by contact of the edges with hair during the shaving motion of the blade across the skin. Thus, the cutting edges of the Trotta blade must be at the surface plane, and must be very sharp. (Id.)

Because the shaving foil of Erdmann and the razor blade of Trotta have different types of edges, intended for different purposes and having different positioning and characteristics, in my opinion it would not have been obvious to one of skill in the shaving art to combine their teachings. The artisan would not have had a reasonable expectation that the Erdmann etching process would provide adequate sharpness of the cutting edge for use in Trotta's wet shaving blade. (Id.)

At page 4, lines 17-22 of the Examiner's Answer, the Examiner acknowledges that Erdmann's "cutting edge" 12 is not positioned at the surface plane of Erdmann's blade, but dismisses this distinction as being unimportant. Applicants disagree. Because of this difference, even if the person of skill in the art had combined the teachings of these references, the claimed invention would not have been reached. Erdmann does not teach or suggest using etching to form an edge at the surface plane of a cutting element, nor does he disclose how etching would be used in this manner. Thus, to obtain Applicants' claimed cutting element, the artisan would not only have had to recognize that Erdmann's etching process would be suitable to form Trotta's wet shaving blade, but also would have had to modify Erdmann's etching process so as to reposition the edge 12 at the surface plane. (Declaration of Uwe Sievers, paragraph 4.) Such wholesale modification would require the exercise of impermissible hindsight.

At page 5, lines 11-12 of the Examiner's Answer, the Examiner states that "if the edge of the razor in Erdmann was not 'sharp' it would not cut any hair," and that "cutting edges are always 'sharp'." This is not the case. As discussed above, the edge 12 in Erdmann acts like one

Applicant : Robert White et al.
Serial No. : 10/692,136
Filed : October 23, 2003
Page : 3

Attorney's Docket No. 00216-645002

side of a pair of scissors, providing a surface against which the underlying shearing knives can act to cut the hair by shearing forces. One of skill in the shaving art would understand that edge 12 need not be sharp, but could in fact be quite blunt. (Declaration of Uwe Sievers, paragraph 5.)

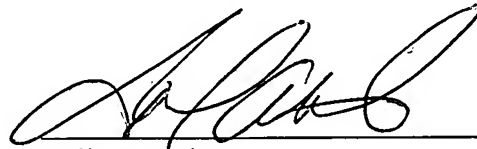
For these reasons, and the reasons stated in the Appeal Brief, Applicant submits that the final rejection should be reversed.

Please apply any charges or credits to Deposit Account No. 06-1050, referencing Attorney Docket No. 00216-645002.

Respectfully submitted,

Date:

May 30, 2006



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Attorney's Docket No. 00216-645002/Case 4255A

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DECLARATION OF UWE SIEVERS

I, Uwe Sievers, declare as follows:

1. I have a University degree in mechanical engineering, and have been working in the dry shaving industry for more than seven years. I am employed by Braun GmbH, which is an affiliate of the assignee.

2. I have read the Examiner's Answer mailed March 28, 2006, and have studied the Erdmann reference cited by the Examiner. I have read the Erdmann reference in German (I am a native German speaker) as well as reviewing the translation of the reference.

3. The Examiner asserts that the teachings of Erdmann and Trotta are combinable "because both Erdmann and Trotta disclose devices which have cutting edges for cutting hair from a user's skin." While both the dry shaver (including the shaving foil and the underlying shearing knives) of Erdmann and the wet shaving razor blade of Trotta cut hair, there the resemblance ends. The two devices operate very differently, and cut hair using a different cutting mechanism.

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Signature Darlene J. Morin
Typed or Printed Name of Person Signing Certificate Darlene J. Morin

In Erdmann, the "shearing blade" (which would more properly be translated from the German as "shearing foil") does not in itself cut hair. It is instead the shearing interaction between the edge 12 of this foil and the edges of underlying shearing knives (referred to collectively as an undercutter) that cuts the hair, in much the same manner as the interaction of the two opposing blades of a pair of scissors. Like scissor blades, the shearing foil and shearing knives do not need to have sharp cutting edges, as it is their interaction that creates the requisite shearing force.

As pointed out by Applicants' representative in the Appeal Brief, the edge 12 of Erdmann's cutting foil is not at the surface plane of the shaving foil. Thus, edge 12 is not properly positioned to cut hair, absent the shearing action of the shearing blades, nor is it intended to do so. Instead, the edge is spaced from the shaver's skin, and directed towards the underlying shearing knives for interaction therewith.

In contrast, the cutting edges of the razor blade of Trotta are intended to cut hair during wet shaving, by contact of the edges with hair during the shaving motion of the blade across the skin. Thus, the cutting edges of the Trotta blade must be at the surface plane, and must be very sharp.

Because the shaving foil of Erdmann and the razor blade of Trotta have different types of edges, intended for different purposes and having different positioning and characteristics, in my opinion it would not have been obvious to one of skill in the shaving art to combine their teachings. The artisan would not have had a reasonable expectation that the Erdmann etching process would provide adequate sharpness of the cutting edge for use in Trotta's wet shaving blade.

4. Moreover, even if the person of skill in the art had combined the teachings of these references, the claimed invention would not have been reached. Erdmann does not teach or suggest using etching to form an edge at the surface plane of a cutting element, nor does he disclose how etching would be used in this manner. To obtain Applicants' claimed cutting element, the artisan would not only have had to recognize that Erdmann's etching process would

Applicant : Robert White et al.
Serial No. : 10/692,136
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Page : 3

Attorney's Docket No. 00216-645002

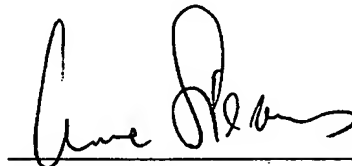
be suitable to form Trotta's wet shaving blade, but also would have had to modify Erdmann's etching process so as to reposition the edge 12 at the surface plane.

5. The Examiner states that "if the edge of the razor in Erdmann was not 'sharp' it would not cut any hair," and that "cutting edges are always 'sharp'." This is not the case. As discussed above, the edge 12 in Erdmann acts like one side of a pair of scissors, providing a surface against which the underlying shearing knives can act to cut the hair by shearing forces. One of skill in the shaving art would understand that edge 12 need not be sharp, but could in fact be quite blunt.

6. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Date: _____

May 29, 2006



Uwe Sievers

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